IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 33273 of 2005(J)

PETITIONERS:
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1. **RAJAN.K.JOHN, STEWARD GRADE II,**
   PWD REST HOUSE, KOLLAM.

2. **A.UNNIKRISHNAN, STEWARD GRADE II,**
   PWD REST HOUSE, KOZHIKODE.

BY ADV. SRI.D.KISHORE
SMT.MEERA GOPINATH

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS**
   SECRETARY, PUBLIC WORKS (A) DEPARTMENT,
   GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM.

2. **THE CHIEF ENGINEER, PWD ADMINISTRATION,**
   THIRUVANANTHAPURAM.

3. **THE SUPERINTENDING ENGINEER,**
   BUILDINGS & LOCAL WORKS, SOUTH CIRCLE,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.33273/2005 J

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE KERALA ENGINEERING SUBORDINATE SERVICE (TRAVELLER'S BUNGLAW STAFF) RULES.

EXT.P2: COPY OF THE ORDER NO.952/04/PWD DTD. 1/10/2004 OF THE 1ST RESPONDENT.

EXT.P3: COPY OF THE ORDER NO.EE2/92843/88 DTD. 7/07/89.

EXT.P4: COPY OF THE JUDGMENT DTD. 3/3/97 IN O.P.2612/97.

EXT.P5: COPY OF THE LETTER NO.J52.63054/88 FROM THE 2ND RESPONDENT.

EXT.P6: COPY OF THE REPRESENTATION DTD. 6/03/99 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P7: COPY OF THE LETTER NO.EE3-52453/99 DTD. 29/11/99 WITH SENIORITY LIST OF STEWARD OF THE 2ND RESPONDENT.

EXT.P8: COPY OF THE REPRESENTATION FILED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P9: COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P10: COPY OF THE JUDGMENT DTD. 31/05/2001 IN O.P.16460/01 OF THIS HON'BLE COURT.

EXT.P11: COPY OF THE ORDER NO.EE3-27537/01 DTD. 23/08/01 OF THE 2ND RESPONDENT.

EXT.P12: COPY OF THE LETTER NO.35703/A2/96/PW & T DTD. 31/1/97 OF THE GOVT.

/TRUE COPY/

P.S.TO JUDGE

KSS

V.GIRI, J.

W.P.C.NO.33273 OF 2005 J

Dated this, the 10th September, 2007.

JUDGMENT

The petitioners, who are working as Steward Grade II in the Kerala Engineering Subordinate Service (Travellers' Bungalow Staff), are governed by Ext.P1. There are three categories which are covered by the said Special Rules. They are: Steward Grade I, Steward Grade II (category I), Care taker (category 2) and Butler (category 3). The method of appointment to the different posts are mentioned in Rule 3. The method of appointment to the post of Steward Grade I, re-designated as 'Manager' is by promotion from Category 1(b) Steward Grade II, which is re-designated as Steward as per Ext.P2. In the absence of qualified candidates for promotion from among Steward Grade II, qualified persons from Category 2 caretaker can be considered and in the absence of qualified candidates from among Steward Grade II or caretaker, then qualified persons in Category 3 Butler can be considered and in the absence of all the aforementioned three categories, appointments could be made by transfer from among the Last Grade servants working in the Travellers' Bungalow. In the absence of all the four, direct recruitment should be resorted to.

2. Rule 4(b) mentions the special qualifications applicable to the posts. The method of appointment and qualifications relating to Steward Grades I and II are extracted hereunder:

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Category	Method of appointment		Qualification
1. (a) Steward	**Promotion**	**1.**	**Literacy in English, preferably, a pass in S.S.L.C. or its equivalent.**
		2.	**Knowledge of Bungalow Management and catering in Indian and Foreign Styles and possession of certificate of proficiency thereof.**
		3.	**Knowledge of accounts of catering and stock of houses to be proved by a certificate.**
	Direct recruitment	**1.**	**Pass in S.S.L.C or its equivalent**
		2.	**Certificate in Hotel/Catering management of a recognised institute.**
1(b) Steward	**Appointment/ promotion**	**1.**	**Literacy in English, preferably, a pass in S.S.L.C. or its equivalent.**
		2.	**Knowledge of Bungalow Management and catering in Indian and Foreign Styles and possession of certificate of proficiency thereof.**

	3.	**Knowledge of accounts of catering and stock of houses to be proved by a certificate.**
Direct recruitment	**1.**	**Pass in S.S.L.C or its equivalent**
	2.	**Certificate in Hotel/Catering management of a recognised institute."**

3. The point, in dispute, centers around the qualification for Steward Grade I viz., Literacy in English, preferably a pass in S.S.L.C or its equivalent.

4. The petitioners do not hold S.S.L.C or its equivalent qualification. According to the petitioners, persons who are junior to them in the post of Steward Grade II, have been promoted as Steward Grade I. They further contend that the qualification prescribed for the post of Steward Grade II and for appointment by promotion to the post of Steward Grade I from the post of Steward Grade II are similar and that consequently, if the petitioners were considered qualified for promotion to the post of Steward Grade II, they cannot be considered as not possessing the requisite qualification for promotion to the post of Steward Grade I. Aggrieved by the fact that the persons who are juniors to them in

the category of Steward Grade II possessing S.S.L.C have been promoted as Steward Grade I, the petitioners first moved the Chief Engineer, who passed Ext.P11 and later moved the Government and the Government passed Ext.P12 rejecting their contentions. Hence, they have approached this court with this writ petition challenging Exts.P11 and P12.

5. A counter affidavit has been filed on behalf of the Government making it clear that no person, who is junior to the petitioners, in the category of Steward Grade II and not possessing S.S.L.C has been promoted as Steward Grade I. It is further contended that the qualification prescribed must be considered in such a way, that persons who possess S.S.L.C are preferred to persons who do not have S.S.L.C, while being promoted as Steward Grade I.

6. I have heard learned counsel for the petitioners as also the learned Government Pleader. In my opinion, the prescription of the qualification does not admit of any ambiguity. The qualification prescribed for appointment to the post of Steward Grade I is 'Literacy in English, preferably a pass in S.S.L.C or its equivalent' The Rule making authority has, therefore, indicated that

a person possessing a pass in S.S.L.C or its equivalent should be preferred to others, who do not possess S.S.L.C. If that be so, then in relation to persons who are in the feeder category viz., Steward Grade II (We are not now concerned with Caretakers in the present case inasmuch as there are sufficient number of persons in the category of Steward Grade II and therefore, it is not necessary to consider the case of Caretakers), whether persons with a pass in S.S.L.C should be preferred or not. When, among the persons in the feeder category preference is to be given to persons who have passed S.S.L.C, then obviously promotion of such persons will naturally have to be resorted to by the Government. To ignore S.S.L.C as preferential qualification, in such circumstances, is violation of the Rules.

7. In my opinion, these aspects have been correctly understood by the Government. Inasmuch as the petitioners do not have a case that persons junior to them in the category of Steward Grade II, re-designated as Stewards and who also do not possess S.S.L.C have been preferred to them, the petitioners cannot have any grievance that the Special Rules have been violated by the Government in any manner.

For all these reasons, I find no merit in the writ petition and the same is dismissed.

Sd/-
(**V.GIRI)**
JUDGE

sk/-

//true copy//

V.GIRI, J.

W.P.C.NO.33273 of 2005 J

JUDGMENT

10TH September, 2007.